

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARNELL MCGARY,

Plaintiff,

v.

STEVE GREGORICH, *et al.*,

Defendants.

Case No. C05-5376RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Plaintiff's Motion for Appointment of Counsel [Dkt. #109]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to afford counsel. Under § 1915, the court may appoint counsel in exceptional circumstances. *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims pro se in light of the complexity of the legal issues involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

Plaintiff has not shown a likelihood of success on the merits and it appears he has the ability to articulate his claims pro se. Plaintiff's Motion is **DENIED**.

IT IS SO ORDERED.

1 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
2 appearing pro se.

3 Dated this 10th day of December, 2009.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE
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